

BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation
Against:

NIELS HELTH LAUERSEN, M.D.
Certificate No. C-37842

No: 16-2000-108760

Respondent

DECISION

The attached Stipulation for Surrender of License is hereby adopted by the Division of Medical Quality as its Decision in the above-entitled matter.

This Decision shall become effective at 5:00 p.m. on July 18, 2002.

IT IS SO ORDERED July 11, 2002

By:



RONALD WENDER, M.D.

Chair - Panel B

Division of Medical Quality

1 BILL LOCKYER, Attorney General
of the State of California
2 GAIL M. HEPPELL, State Bar No. 84134
Supervising Deputy Attorney General
3 California Department of Justice
1300 I Street, Suite 125
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6 Attorneys for Complainant
7

8 **BEFORE THE**
9 **DIVISION OF MEDICAL QUALITY**
10 **MEDICAL BOARD OF CALIFORNIA**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Amended Accusation
14 Against:

15 **NIELS HELTH LAUERSEN, M.D.**
16 784 Park Avenue
17 New York, NY 10021

18 Physician and Surgeon's
19 Certificate No. C-37842,

20 Respondent.

Case No. 16-2000-108760

21 **STIPULATION FOR**
22 **SURRENDER OF LICENSE**

23 **IT IS HEREBY STIPULATED AND AGREED** by and between the parties to
24 the above-entitled proceedings that the following matters are true:

25 1. Complainant, Ronald Joseph, is the Executive Director of the Medical
26 Board of California, Department of Consumer Affairs ("Board") and is represented by Bill
27 Lockyer, Attorney General of the State of California by Gail M. Heppell, Supervising Deputy
28 Attorney General.

1 2. Niels Helth Lauersen, M.D. (hereinafter "respondent") is represented by
2 Robert S. Deutsch, Esq. of Aaronson, Rappaport, Feinstein & Deutsch, 757 Third Avenue,
3 Fourth Floor, New York, New York 10017. Respondent has counseled with his attorney
4 concerning the effect of this stipulation which respondent has carefully read and fully

1 understands.

2 3. Respondent has received and read the amended accusation which is
3 presently on file and pending in Case Number 16-2000-108760 before the Board, a copy of
4 which is attached as Exhibit A and incorporated herein by reference.

5 4. Respondent understands the nature of the charges alleged in the amended
6 accusation and that, if proven at hearing, such charges and allegations would constitute cause for
7 imposing discipline upon respondent's license issued by the Board.

8 5. Respondent is aware of each of his rights, including the right to a hearing
9 on the charges and allegations, the right to confront and cross-examine witnesses who would
10 testify against respondent, the right to testify and present evidence on his own behalf, as well as
11 to the issuance of subpoenas to compel the attendance of witnesses and the production of
12 documents, the right to contest the charges and allegations, and other rights which are accorded
13 respondent pursuant to the California Administrative Procedure Act (Gov. Code § 11500 et seq.)
14 and other applicable laws, including the right to seek reconsideration, review by the superior
15 court, and appellate review.

16 6. In order to avoid the expense and uncertainty of a hearing, respondent
17 freely and voluntarily waives each and every one of these rights set forth above and agrees that at
18 a hearing, complainant could establish a factual basis for the charges contained in amended
19 accusation No. 16-2000-108760. Respondent agrees that cause exists to discipline his physician
20 and surgeon's license pursuant to Business and Professions Code section 141, and hereby
21 surrenders his license for the Board's formal acceptance.

22 7. Respondent understands that by signing this stipulation he is enabling the
23 Medical Board of California to issue its order accepting the surrender of his license without
24 further process. He understands and agrees that Board staff and counsel for complainant may
25 communicate directly with the Board regarding this stipulation, without notice to or participation
26 by respondent. In the event that this stipulation is rejected for any reason by the Board, it will be
27 of no force or effect for either party. The Board will not be disqualified from further action in
28 this matter by virtue of its consideration of this stipulation.

1 8. Upon acceptance of the stipulation by the Board, respondent understands
2 that he will no longer be permitted to practice as a physician and surgeon in California, and also
3 agrees to surrender and cause to be delivered to the Board both his license and wallet certificate
4 before the effective date of the decision.

5 9. Respondent fully understands and agrees that if he ever files an application
6 for relicensure or reinstatement in the State of California, the Board shall treat it as a petition for
7 reinstatement, the respondent must comply with all the laws, regulations and procedures for
8 reinstatement of a revoked license in effect at the time the petition is filed.

9 10. Respondent understands that he may not petition for reinstatement as a
10 physician and surgeon for a period of three (3) years from the effective date of his surrender.
11 Information gathered in connection with amended accusation number 16-2000-108760 may be
12 considered by the Division of Medical Quality in determining whether or not to petition for
13 reinstatement. For the purposes for the reinstatement hearing, the allegations in amended
14 accusation number 16-2000-108760 shall be deemed to be admitted by respondent, and
15 respondent waives any and all defenses based on a claim of laches.

16 11. All recitals contained in this stipulation are made solely for the purpose of
17 settlement in this proceeding and for any other proceedings in which the Medical Board of
18 California or other professional licensing agency is involved, and shall not be admissible in any
19 other criminal or civil proceedings.

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1 ACCEPTANCE

2 I, Niels Helth Lauersen, M.D., have carefully read the above stipulation and enter
3 into it freely and voluntarily and with full knowledge of its force and effect, do hereby surrender
4 my Physician and Surgeon's Certificate No. C-37842, to the Division of Medical Quality,
5 Medical Board of California for its formal acceptance. By signing this stipulation to surrender
6 my license, I recognize that upon its formal acceptance by the Board, I will lose all rights and
7 privileges to practice as a physician and surgeon in the State of California and I also will cause to
8 be delivered to the Board both my license and wallet certificate before the effective date of the
9 decision.

10 DATED: 5/2 2002

11 NIELS HELTH LAUERSEN, M.D.
12 Respondent

13 I have fully discussed with respondent, Niels Helth Lauersen, M.D., terms and conditions
14 and other matters contained in the above Stipulation for Surrender of License and approve its
15 form.

16 DATED: 4/24/02

17 ROBERT S. DEUTSCH, ESQ.
18 Attorney for Respondent

19 ENDORSEMENT

20 I concur in the stipulation.

21 DATED: 4/12/02

22 BILL LOCKYER, Attorney General
23 of the State of California

24 GAIL M. HEPPEL
25 Supervising Deputy Attorney General
26 Attorneys for Complainant

27 Exhibit A: Amended Accusation
28

EXHIBIT A

BILL LOCKYER, Attorney General
of the State of California
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Attorneys for Complainant

BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Amended Accusation Against:

Case No. 16-2000-108760

NIELS HELTH LAUERSEN, M.D.
784 Park Avenue
New York, NY 10021

**SECOND AMENDED
ACCUSATION**

Physician and Surgeon's Certificate No. C-37842,

Respondent.

The Complainant alleges:

PARTIES

1. Complainant, Ron Joseph, is the Executive Director of the Medical Board of California (hereinafter the "Board") and brings this amended accusation solely in his official capacity.

2. On or about March 1, 1978, Physician and Surgeon's Certificate No. C-37842 was issued by the Board to Niels Helth Lauersen, M.D. (hereafter "respondent"). Said certificate is renewed and current, with an expiration date of September 30, 2001.

JURISDICTION

3. This amended accusation is brought before the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs (hereinafter the "Division"), under the authority of the following sections of the California Business and Professions Code

1 (hereinafter "Code"), and/or other relevant statutory enactment:

2 A. Section 2227 of the Code provides that the Board may revoke, suspend for
3 a period not to exceed one year, or place on probation, the license of any licensee who has
4 been found guilty under the Medical Practice Act, and may recover the costs of probation
5 monitoring if probation is imposed.

6 B. Section 141 (a) of the Code provides in relevant part that a disciplinary
7 action taken by another state, by any agency of the federal government, or by another
8 country, for any act substantially related to the practice regulated by the California
9 license, may be a ground for a disciplinary action by the Board.

10 C. Section 2305 of the Code provides that the revocation, suspension, or
11 other discipline, restriction, or limitation imposed by another state upon a license to
12 practice medicine issued by that state, or the revocation, suspension, or restriction of the
13 authority to practice medicine by any agency of the federal government, that would have
14 been grounds for discipline in California under the Medical Practice Act, constitutes
15 grounds for discipline for unprofessional conduct.

16 D. Section 2234 of the Code provides that unprofessional conduct includes,
17 but is not limited to, the following:

18 “(a) Violating or attempting to violate, directly or indirectly, or assisting in or
19 abetting the violation of, or conspiring to violate, any provision of this chapter.

20 (b) Gross negligence.

21 (c) Repeated negligent acts.

22 (d) Incompetence.

23 (e) The commission of any act involving dishonesty or corruption which is
24 substantially related to the qualifications, functions, or duties of a physician and surgeon.

25 (f) Any action or conduct which would have warranted the denial of a
26 certificate.”

27 E. Section 2236 of the Code provides that conviction of any offense
28 substantially related to the qualifications, functions and duties of a physician and surgeon

1 constitutes unprofessional conduct.

2 F. Section 2266 of the Code provides that the failure of a physician and
3 surgeon to maintain adequate and accurate records relating to the provision of services to their
4 patients constitutes unprofessional conduct.

5 G. Section 125.3 of the Code provides, in part, that the Board may request the
6 administrative law judge to direct any licentiate found to have committed a violation or
7 violations of the licensing act, to pay the Board a sum not to exceed the reasonable costs
8 of the investigation and enforcement of the case.

9 H. Section 14124.12(a) of the Welfare & Institutions Code provides in
10 pertinent part that upon written notice of the Medical Board of California that a physician
11 and surgeon's medical license has been placed on probation as a result of a disciplinary
12 action, no Medi-Cal claim for the type of surgical service or invasive procedure giving
13 rise to the probationary order and performed on or after the effective date of said
14 probationary order or during the period of probation shall be reimbursed, except upon a
15 prior determination that compelling circumstances warrant the continuance of
16 reimbursement during the probationary period for procedures other than those giving rise
17 to the probationary order.

18 4. Respondent is guilty of unprofessional conduct within the meaning of Code
19 sections 2305, 2234(b), 2234 (c), 2234(e), 2236 and 2266, and subject to discipline within the
20 meaning of Code section 141 (a), as set forth in greater detail herein below.

21 **FIRST CAUSE FOR DISCIPLINE**
22 **(Discipline, Restriction or Limitation Imposed by Another State)**
23 **[Bus. & Prof. Code §§ 141 (a), 2305, 2234 (c) and 2266]**

24 5. On or about February 17, 2000, the New York State Department of Health
25 Administrative Review Board for Professional Medical Conduct (hereafter NYARB) issued
26 Determination and Order No. 99-269, placing respondent on probation for two years and imposing
27 a requirement that respondent practice with a monitor and complete a course in medical record
28 keeping. The NYARB based its order upon determining that respondent had practiced medicine
with negligence with regard to his treatment and/or care of four patients (listed in records of the

1 NYARB as patients "C, D, E, G") and failed to maintain accurate patient records.

2 6. Respondent's conduct as set forth in paragraph 5, above, constitutes
3 unprofessional conduct within the meaning of Code sections 2305, 2234 (c) and 2266, and
4 subjects his license to discipline within the meaning of Code section 141 (a).

5 **SECOND CAUSE FOR DISCIPLINE**
6 **(Discipline, Restriction or Limitation Imposed by Another State)**
7 **[Bus. & Prof. Code §§ 141(a), 2305, 2234(b), 2234(c), 2234(e)]**

7 7. On or about October 20, 2000, the NYARB issued Determination and Order
8 BPMC-00-286 revoking respondent's license to practice medicine in New York. After a lengthy
9 hearing, the NYARB found that respondent had committed fraud by lying on application forms
10 for recertification from insurance companies and on medical staff applications. Respondent
11 answered intentionally and with intent to deceive "no" to questions regarding whether he was
12 investigated by the Department of Health and whether he had been the subject of a disciplinary
13 proceeding. The NYARB also found that respondent had committed numerous acts of gross
14 negligence and acts of negligence on more than one occasion in his care and treatment of
15 obstetrical and gynecologic patients by performing unnecessary surgeries placing patients at
16 unnecessary risk, repeatedly failing to properly diagnose a patient's condition, performing an
17 excessive number of laparoscopies on one patient, and injuring two babies during delivery by the
18 improper use and application of forceps.

19 **THIRD CAUSE FOR DISCIPLINE**
20 **(Conviction of a Crime)**
21 **[Bus. & Prof. Code § 2236]**

21 8. On or about October 15, 2001, respondent pled guilty to counts 1, 2, 3 - 10, 16 -
22 19, 20, 21 of an indictment in Case No. S2 98 Cr. 1134 (WHP), "United States of America v.
23 Niels Lauersen and Magda Binion, Defendants", before the United States District Court, Southern
24 District of New York. Respondent pled guilty to Conspiracy to Commit Mail Fraud, Health Care
25 Fraud and False Statements in violation of 18 USC Section 371, Health Care Fraud in violation of
26 18 USC Sections 1347 and 2, Mail Fraud in violation of 18 USC Sections 1341 and 2, False
27 Statements Relating to Health Care Matters in violation of 18 USC Sections 1035(a) and 2, and
28 Witness Tampering in violation of 18 USC 1412(b). Respondent was committed to the custody of

1 the United States Bureau of Prisons for 87 months, upon release from imprisonment, supervised
2 release for 2 years, fined \$17,500, and ordered to make restitution in the amount of \$3,240,597.

3 A. The facts and circumstances surrounding said conviction are as follows: Between
4 1997 and 1998, respondent along with the named defendant entered into a conspiracy to defraud
5 health insurance companies. Respondent submitted false and misleading documents to the health
6 insurance companies. Respondent operated a medical office where he provided obstetrical,
7 gynecological and fertility services. He performed, among other procedures, assisted reproductive
8 technology (ART) procedures along with the named defendant who acted an anesthesiologist.
9 During this time period, there were health insurance companies who did not provide coverage for
10 ART procedures; some companies only provided limited coverage. Respondent, in order to
11 obtain money from the health insurance companies, submitted false bills which concealed the
12 nature of the service provided by respondent. From July, 1998 to August, 1998, respondent tried
13 to persuade a patient who had received a grand jury subpoena to falsely state that the ART
14 surgeries respondent performed were emergency surgeries to treat the patient's pain and bleeding,
15 when in truth and in fact such surgeries were not emergency surgeries.

16 9. Respondent's conduct as set forth in paragraphs 8 and 8A, constitutes
17 unprofessional conduct within the meaning of Code section 2236 and subjects his license to
18 discipline.

19 **PRAYER**

20 **WHEREFORE**, the complainant requests that a hearing be held on the matters
21 herein alleged, and that following the hearing, the Division issue a decision:

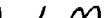
22 1. Revoking or suspending physician and surgeon's certificate Number
23 C-37842 heretofore issued to respondent, Niels Helth Lauersen, M.D.;

24 2. Revoking, suspending or denying approval of the respondent's authority to
25 supervise physician's assistants, pursuant to Business and Professions Code section 3527;

26 3. Ordering respondent to pay the Division the actual and reasonable costs of
27 the investigation and enforcement of this case and the costs of probation monitoring if probation
28 is imposed; and

4. Taking such other and further action as the Division deems necessary and proper.

DATED: MARCH 18 2002


Ron Joseph
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California

Complainant